

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ADE BROWN #884273,

Plaintiff,

v.

SABRINA DAVIS, et al.,

Defendants.

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Case No. 1:18-cv-1322

HON. JANET T. NEFF

**ORDER**

On September 28, 2020, this case was reassigned to the undersigned following Magistrate Judge Kent's Report and Recommendation (R&R) (ECF No. 38) indicating that Plaintiff's remaining claim in the above case is also at issue in a matter filed by Plaintiff in *Brown v. Davis, et al.*, Case No. 1:18-cv-1362, pending before the undersigned (ECF No. 41).

As noted in the Report and Recommendation (ECF No. 38), Plaintiff filed two similar cases in this Court, *Brown v. Sabrina Davis, et al.*, 1:18-cv-1322 ("Case 1322"), and a later case, *Brown v. Sabrina Davis, et al.*, 1:18-cv-1362 ("Case 1362"). While Case 1322 and Case 1362 started off on different paths, their paths have now converged. Plaintiff's only remaining claim in Case 1322, *i.e.*, that defendants John Davids and Sabrina Davis retaliated against him for failing to issue LOP waivers after October 2018, is also at issue in Case 1362, where the Court recently denied Defendants' motion for summary judgment (Case 1362, ECF No. 48). Plaintiff is litigating the same retaliation claim in two different lawsuits. The Report and Recommendation recommends that Defendants John Davids and Sabrina Davis' motion for summary judgment (ECF No. 23) be

denied and this lawsuit be dismissed as redundant of Plaintiff's claims against John Davids and Sabrina Davis pending in Case 1362.

Plaintiff filed an objection to the Report and Recommendation, requesting that the Court either consolidate the cases, allow this case to proceed or stay this case pending appeal. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court finds no basis for the relief requested by Plaintiff where this Court has now decided that Plaintiff's same claim shall proceed in Case 1362. Dismissal of the remaining duplicative claim in this case will conserve resources of the Court and the parties. Contrary to Plaintiff's assertion, the docket reflects no pending appeal in the Sixth Circuit Court of Appeals in this case, which in any event would appear to be premature. On the other hand, dismissal of the remaining claim will conclude this case and permit Plaintiff to pursue an appeal as appropriate.

Plaintiff's objections to the Report and Recommendation are denied. The Court will adopt the Magistrate Judge's Report and Recommendation as the Opinion of this Court, except that Plaintiff has 14 days to show cause why the remaining claim in this case shall not be dismissed on the ground that the same claim is proceeding before the undersigned in Case 1362.

Therefore:

**IT IS HEREBY ORDERED** that Plaintiff's Objections (ECF No. 39) are DENIED, and the Report and Recommendation of the Magistrate Judge (ECF No. 38) is APPROVED and ADOPTED as the Opinion of the Court, except with regard to dismissal of the remaining claim, as stated herein.

**IT IS FURTHER ORDERED** that Defendants' Motion for Summary Judgment (ECF No. 23) is DENIED.

**IT IS FURTHER ORDERED** that Plaintiff shall not later than October 14, 2020 file a Response, if any, showing cause why the remaining claim(s) in this case should not be dismissed in light of the continuing proceedings adjudicating the same claim(s) in Case No. 1:18-cv-1362, also before the undersigned.

Dated: September 30, 2020

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge